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SUPREME COURT OF THE UNITED STATES.

No. 127.—OCTOBER TERM, 1924.

Ziang Sung Wan, Petitioner, vs. The United States of America.	} On Certiorari to the Court of Appeals of the Dis- trict of Columbia.
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[October 13, 1924.]

Mr. Justice BRANDEIS delivered the opinion of the Court.

On January 31, 1919, the police department of the District of Columbia learned that three Chinamen, the inmates of a house in Washington occupied by the Chinese Educational Mission, had been murdered. They were known to have been alive late in the evening of January 29. Police officers were told by Li, a student, that, earlier on the same evening, he had seen at the Mission a resident of New York City named Wan. Acting under instructions of the superintendent of police, two detectives started immediately for New York, taking Li with them. On February 1, they entered Wan's room in a lodging house, found him there, and brought him to Washington. He was not formally arrested until February 9. Later, he was indicted, in the Supreme Court of the District, for the murder of one of the Chinamen; was found guilty; and was sentenced to be hanged. The Court of Appeals of the District affirmed the judgment. 289 Fed. 908. A writ of certiorari was granted. 263 U. S. 693.

The main question for decision¹ is whether, on the facts disclosed in the testimony of the superintendent of police, three detectives

¹The indictment was found on September 30, 1919; the verdict rendered on January 9, 1920; and the sentence imposed on May 14, 1920. The time for filing the bill of exceptions, which under the rule would have expired June 21, 1920, was, on that day, extended to November 1, 1920; and it was not filed until the latter date. Before it was settled, the judge who had presided at the trial died. A motion to vacate the judgment, made on this ground, was denied on November 22, 1921. Thereupon, the bill of exceptions was signed by the Chief Justice of the Court. It was contended here, among other things, that the judgment should be set aside because a bill of exceptions can be settled only by the judge who presided at the trial. The contention is unfounded. *Roney v. United States*, 43 App. D. C. 533.

and the chief medical officer of the jail, the trial court erred in admitting as evidence statements made by the defendant to the police officers before and shortly after his formal arrest.² Four of the statements were oral. These, if admissible, were important evidence. The fifth was a stenographic report of an interrogation of the defendant conducted by the detectives, after the arrest. This report contained a full confession. The introduction of each of the statements was duly objected to on the ground that the Government failed to show that it had been voluntarily made and that from the testimony of its own witnesses the contrary appeared. The court admitted the statements. It later charged the jury: "The test of the case, and the inquiry that you will have to make in answer is: Did the questioning, did the physical condition, did the importunate questioning, if you choose to call it so, render the confession made by the defendant not his own; but did it substitute for his will the will of another, and thus was it or not his voluntary act?"

Wan was a native of China. He had come to the United States in 1916, at the age of twenty-two, as a student. In 1918, he engaged in a business which proved unsuccessful. Since December of that year, or earlier, his health had been bad. He had an attack of Spanish influenza. He suffered continuously from a chronic stomach trouble which led him to eat sparingly and irregularly. When the detectives entered his room unannounced they found him in bed. They had no search warrant; but they made a search of the room and his effects, including the bed in which he lay. They were accompanied by a New York police officer; but they did not arrest Wan. They requested that he return with them to Washington. He told them he was too sick. Li, who had been left waiting outside the closed door and was called in, told Wan that both of them were suspected of the murder. Then, Wan consented to go with the detectives to Washington.

On arrival in Washington, Wan was not put formally under arrest; but he was taken to a secluded room. In the presence of

²With the exception of these statements, the government introduced only circumstantial evidence. The defendant testified on his own behalf asserting his innocence. He described the conditions under which the statements had been made, denied or explained them, and insisted that the confession was a suggested one.

three detectives, the superintendent of police, and Li, he was subjected there to questioning for five or six hours. Late in the evening of that first day, the detectives took him to Hotel Dewey; and, without entering his name in the hotel registry, placed him in a bedroom on an upper floor. In that room he was detained continuously one week. Throughout the period, he was sick and, most of the time, in bed. A physician was repeatedly called. It was a police surgeon who came. In vain Wan asked to see his brother with whom he lived in New York; who had nursed him in his illness; who had come to Washington at his request in January; who had returned with him to New York; and whom, as he later learned, the detectives had also brought to Washington, were detaining in another room of the hotel, and were subjecting to like interrogation.

Wan was held in the hotel room without formal arrest, *incommunicado*. But he was not left alone. Every moment of the day, and of the night, at least one member of the police force was on guard inside his room. Three ordinary policemen were assigned to this duty. Each served eight hours: the shifts beginning at midnight, at eight in the morning, and at four in the afternoon. Morning, afternoon and evening (and at least on one occasion after midnight) the prisoner was visited by the superintendent of police and/or one or more of the detectives. The sole purpose of these visits was to interrogate him. Regardless of Wan's wishes and protest, his condition of health or the hour, they engaged him in conversation. He was subjected to persistent, lengthy and repeated cross-examination. Sometimes it was subtle, sometimes severe. Always the examination was conducted with a view to entrapping Wan into a confession of his own guilt and/or that of his brother. Whenever these visitors entered the room, the guard was stationed outside the closed door.

On the eighth day, the accusatory questioning took a more excruciating form. A detective was in attendance throughout the day. In the evening, Wan was taken from Hotel Dewey to the Mission. There, continuously for ten hours, this sick man was led from floor to floor minutely to examine and re-examine the scene of the triple murder and every object connected with it, to give explanations, and to answer questions. The places where the dead men were discovered; the revolver with which presumably the murder was committed, the blood stains and the

finger prints thereon; the bullet holes in the walls; the discharged cartridges found upon the floor; the clothes of the murdered men; the blood stains on the floor and the stairs; a bloody handkerchief; the coat and pillow which had been found covering the dead men's faces; photographs, taken by the police, of the men as they lay dead; the doors and windows through which the murderer might have entered or made his escape; photostat copies of writings, by means of which it was sought to prove that Wan was implicated in a forgery incident to the murder; all these were shown him. Every supposed fact ascertained by the detectives in the course of their investigation was related to him. Concerning every object, every incident detailed, he was, in the presence of a stenographer, plied with questions by the superintendent of police and the detectives. By these he was engaged in argument; sometimes separately, sometimes in joint attack. The process of interrogation became ever more insistent. It passed at times from inquiry into command. From seven o'clock in the evening until five o'clock in the morning the questioning continued. Before it was concluded, Li, who was again in attendance, had left the Mission about midnight, worn out by the long hours. The superintendent of police had returned to his home, apparently exhausted. One of the detectives had fallen asleep. To Wan, not a moment of sleep was allowed.

On the ninth day, at twenty minutes past five in the morning, Wan was taken from the Mission to the station house and placed formally under arrest. There, the interrogation was promptly resumed. Again the detectives were in attendance, day and evening, plying their questions; pointing out alleged contradictions; arguing with the prisoner; and urging him to confess, lest his brother be deemed guilty of the crime. Still the statements secured failed to satisfy the detectives' craving for evidence. On the tenth day, Wan was "bundled up"; was again taken to the Mission; was again questioned there for hours; and there "the whole thing was again talked of and enacted." On the eleventh day, a formal interrogation of Wan was conducted at the station house by the detectives in the presence of a stenographer. On the twelfth day, the verbatim typewritten report of the interrogation (which occupies twelve pages of the printed record) was read to Wan, in his cell at the jail. There, he signed the report and

initialled each page. On the thirteenth day, for the first time, Wan was visited by the chief medical officer of the jail, in the performance of his duties. This experienced physician and surgeon testified, without contradiction, to the condition of the prisoner:

"[He] found . . . [Wan] lying in a bunk in the cell, very weak, very much exhausted, very much emaciated; he complained of abdominal pain, which was rather intense. He told witness, and witness afterwards saw, that he vomited if he attempted to take food; that it was difficult or impossible for his bowels to move unless they were assisted by an enema; witness thought he was very seriously ill; . . . ordered certain tests by the laboratory . . . ; had his blood examined and his abdomen X-rayed and had him removed from the cell to the Red Cross room; . . . concluded he was suffering from spastic colitis: [involving contraction of the bowel.] . . . The result of that contraction would be almost constant pain, excited by any further additions to the contents of the tract at that point, and vomiting and persistent constipation. . . . Witness knows defendant was in bed at least a month after his treatment was prescribed. From witness' observation and medical experience, judging from the defendant's emaciation and history he gave witness, and his condition generally, would say that when witness saw the defendant on February 13th he had been ill for a matter of weeks. . . . He told me he had been talked to all one night and had not received any medical attention, and had been in constant pain all of this time and had been unable to eat for days, and considering all those facts I came to the conclusion that he was so exhausted that he was really—he told me also that he had signed a confession."

[Then the witness was further questioned by the court.]

"Question. You thought he was so exhausted mentally that he would not know what he was signing. . . . Would he know what he was signing?

Answer. He would know what he was signing, yes.

Question. Would he be liable to sign a confession that would lead him to the gallows in that condition?

Answer. I think he would, if he wanted to be left alone.

Question. With spastic colitis, if he was accused of crime he would simply sign a paper and say, "You hang me"? That is your opinion as a medical man?

Answer. I say, if he was as sick as that and in as great pain as that, he would do anything to have the torture stopped."

The Court of Appeals appears to have held the prisoner's statements admissible on the ground that a confession made by one competent to act is to be deemed voluntary, as a matter of law, if it was not induced by a promise or a threat; and that here there was evidence sufficient to justify a finding of fact that these statements were not so induced. In the federal courts, the requisite of voluntariness is not satisfied by establishing merely that the confession was not induced by a promise or a threat. A confession is voluntary in law if, and only if, it was, in fact, voluntarily made. A confession may have been given voluntarily, although it was made to police officers, while in custody, and in answer to an examination conducted by them.³ But a confession obtained by compulsion must be excluded whatever may have been the character of the compulsion, and whether the compulsion was applied in a judicial proceeding or otherwise. *Bram v. United States*, 168 U. S. 532.⁴ None of the five statements introduced by the Government as admissions or confessions was made until after Wan had been subjected for seven days to the interrogation. The testimony given by the superintendent of police, the three detectives and the chief medical officer left no room for a contention that the statements of the defendant were, in fact, volun-

³*Hopt v. Utah*, 110 U. S. 574, 584; *Sparf and Hansen v. United States*, 156 U. S. 51, 55; *Pierce v. United States*, 160 U. S. 355, 357; *Wilson v. United States*, 162 U. S. 613, 623; *Bram v. United States*, 168 U. S. 532, 558; *Hardy v. United States*, 186 U. S. 224, 229; *Powers v. United States*, 223 U. S. 300, 314; *Bilokumsky v. Tod*, 263 U. S. 149, 157.

⁴See also *Wilson v. United States*, 162 U. S. 613, 623; *Hardy v. United States*, 186 U. S. 224, 229; *Kent v. Porto Rico*, 207 U. S. 113, 119; *Powers v. United States*, 223 U. S. 303, 313. Compare *Counselman v. Hitchcock*, 142 U. S. 547; *Brown v. Walker*, 161 U. S. 591, 596-7; *Hale v. Henkel*, 201 U. S. 43, 71; *Wilson v. United States*, 221 U. S. 361, 379; *Perlman v. United States*, 247 U. S. 7, 13.

⁵This testimony occupies, in its condensed form, fifty pages of the printed record. The character of the pressure applied is illustrated by the following extracts from the testimony of the detectives:

" . . . Sometimes witness has sat and talked to him, or, rather talked at him twenty minutes or half an hour, and asked him could he explain certain phases of this case, without his uttering a word or making any reply whatever."

"A good many times during the course of the investigation he would ask to be left alone, but we did not leave him alone, and we would ask him a

tary.⁵ The undisputed facts showed that compulsion was applied. As to that matter there was no issue upon which the jury could

question, and if it was rather pointed he would say he was tired, to leave him alone, 'I will talk no more to you.' Sometimes would be twenty or thirty minutes before he would answer or say a word . . . asked him the same questions over and over again a great many times without getting any answer at all; . . .

" . . . defendant had continuously asked to be let alone and not bothered, whenever he was asked a pointed question and if he answered it it might implicate him or embarrass him; he would say, 'Let me alone, I talk no more to you tonight, I don't feel well', this was done repeatedly whenever he was pressed for an answer to a pointed question; sometimes we would leave him alone, and witness sometimes stayed there and talked at him for a while until we got tired of it . . . ; told defendant witness thought his sickness was more in his mind than in his body."

[On the eighth day, at the Mission] "Well, he sat and rolled his eyes when I asked him why he came out to the house the second time, why he did not go to the cafe instead of coming away out to the house, and he sat there and rolled his eyes at me, and Burlingame [another of the detectives] said, 'Answer his question,' and then he turned to his brother and started in the Chinese language, and Burlingame said, 'Here, don't speak Chinese. Answer Kelley's question.' Then he raised up with a coat hanger and Burlingame caught him on the shoulders and said, 'We don't want anything like that here.' This was about one o'clock in the morning, and we left somewhere around four o'clock; not much was said after four o'clock, just talking; Burlingame objected to defendant talking in Chinese because he wanted him to answer questions; requested him once and then sat him down in the chair; . . .

" . . . defendant was not permitted to sleep or to go back to hotel . . .

" . . . witness did try to force an answer out of him by asking him to answer the questions, but not by physical force or anything of that kind . . . it was on that occasion [on the ninth day, at the station house, after the all-night interrogation at the Mission] that witness told defendant, 'If you are guilty, and your brother is innocent, I want to know, for I am holding your brother just the same as I am holding you.' Witness thinks he said, 'Now is the time to tell me,' intimating to him that he had been in confinement a long time and witness wanted to know something about it; they were both in confinement and witness was anxious for him to tell about his brother; was satisfied he was guilty but did not tell him so at that time; was just about that time witness said 'things look bad for you' or 'things look black for you' and you ought to tell me the truth. . . . Went over practically and rehearsed all the case as far as they had learned about it and related all the circumstances against him; told him a lot of things, but never offered any inducement, because witness has had too much experience in that line."

[Witness went to the station house Sunday night for the purpose of still talking to him about the case.] "I wanted to straighten out a great many

properly have been required or permitted to pass. The alleged oral statements and the written confession should have been excluded.*

Reversed

A true copy.

Test:

Clerk, Supreme Court, U. S.

circumstances which pointed to him . . . wanted to know from him whether he was guilty; wanted him to tell the truth; asked him on a number of occasions to tell the truth, and those circumstances which pointed very strongly against him, strongly indicated to witness' mind that he knew a great deal more about the case than he told of; that we had caught him in several contradictory statements and witness said: 'We are all firmly of the belief that you know who killed those men'; sat and watched him and looked at him fully and for a long time after I would tell him those things and would say 'Now you think it over' and stayed right there with him.

Q. Your purpose in telling him those things was to make him talk?

A. My purpose was to get him to tell me the truth about this case.

Q. Answer the question, will you?

A. Well, he had to talk."

" . . . Practically every admission he made was in answer to question witness asked himself; 'had gotten practically everything that I thought was important' and left the details to Burlingame and Kelly."

*Compare *Boyd v. United States*, 116 U. S. 616, 631; *Weeks v. United States*, 232 U. S. 383, 398; *Silverthorne Lumber Co. v. United States*, 251 U. S. 392; *Gould v. United States*, 255 U. S. 298; *Amos v. United States*, 255 U. S. 313, 316; *Bilokumsky v. Tod*, 263 U. S. 149, 155; and "Progress of the Law, 1921-1922, Evidence," [Chafee] 35 Harv. L. Rev. 428, 439.

